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AUTHOR Bice, Garry R.
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ABSTRACT

Statutory requirements in federal vocational education legislation with which state and local agencies must comply are exclusively process oriented. Most reactive, federal legislation encourages rigidity and inflexibility, since (1) laws, rules, and regulations are rigid with respect to processes and procedures that must be used; (2) the nature of the legislation limits its ability to be proactive; (3) strict compliance is easy due to concise prescriptive terms; (4) most compliance requirements relate to process only; and (5) compliance standards set program maximums that become the accepted rule. States have submitted plans in compliance with rules and regulations; enforcement of provisions, however, has been difficult. Legislation has had little apparent effect on compliance and enforcement. More prescriptive public laws and the ensuing rules and regulations for implementation have only made it more difficult for states to write plans in compliance with federal and state legislation. Current legislation appears to be directing vocational education toward greater federal control. Suggested legislative changes to alleviate compliance/enforcement concerns are changing focus from process to product, changing focus of administration at the national level from control to planning, and changing federal involvement from a catalyst to fertilizer effect. New legislation could consolidate all education and training programs. (YLB)

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# ON VOCATIONAL EDUCATION ACHIEVING COMPLIANCE WITH AND ENFORCEMENT OF THE PROVISIONS OF APPLICABLE LAWS OF THE UNITED STATES

by
Garry R. Bice

The primary purpose of vocational education is to prepare individuals for occupations which do not require as much as a baccalaureate degree. Ostensible, Federal aid is made available in order that states may provide better programs of vocational education. One of the issues commonly raised with this and similar arrangements is that of Federal assistance and direction without Federal control. When one addresses that issue, you must consider the concerns of compliance with and enforcement of provisions of applicable laws of the United States.

The purpose of this paper is to address the concerns of compliance and enforcement. Using the definitions in the Second College Edition of Webster's New World Dictionary, compliance is defined as "giving in to a request, wish, or demand"; and enforcement is defined as "to give force to, to bring about, or impose by force."

## Need for Compliance

The purpose of compliance is to insure that everyone is treated the same and that laws of the land are not violated. Compliance assumes that the same process is appropriate for and can be used by everyone to achieve specific (although sometimes assumed) goals. Statutory

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requirements with which State and local agencies must comply are exclusively process oriented and are concerned with such areas as the development of plans, the allocation or distribution of funds, the development of cooperative arrangements, membership categories or committees and councils and other similar areas. Requirements for compliance are usually manifested in the rules and regulations developed as a result of rule-making procedures which include inputs from public hearings and other governmental processes. The concept of compliance is an important one when you consider the fact that Congress is interested in seeing that the intent of laws passed by that body of lawmakers is carried out. On the other side of the coin, however, one has to be concerned about the wisdom of laws that focus largely upon educational process.

Need for Enforcement

The need for enforcement of Federal laws is beyond reproach. There simply is no need for Congress to pass laws if they are not going to be enforced. Although this paper will not address the issue, a key concern is "what should public laws focus on, process or product (results)?" If Congress passes laws to "promote the general welfare" of this country, the laws must be enforced.

A REFLECTION

A total historical review of legislation for vocational education would serve no useful purpose for this paper.

However, one does have to reflect upon past events to some extent in order to visualize some of the problems with and concerns about the compliance and enforcement question. When one reviews the 1972 and 1974 GAO reports on vocational education it is eminently obvious why compliance and enforcement are major concerns. This is not to support or refute the contents or conclusions of those reports, however. The fact is, the findings of those studies force us to take a conscientious look at compliance with and enforcement of Federal Laws.

Philosophical Foundations

Congress writes and implements legislation in an effort to alleviate some need, whether it is an expressed or unexpressed need. The need may be in the social, economic, political or other realm and the intent may be to solve a problem or combination of problems related to those needs. Based upon popular ideas (some of which are unproven), facts and proven theories or combinations thereof, laws are developed. Occasionally, laws are passed to accomplish hidden agendas of individuals or pressure groups. In the case of legislation affecting vocational education, one has to critically analyze why the Federal government is involved to begin with. Because "education" was, in essence, omitted from the U.S. Constitution, that responsibility was left to the States. Why then are Federal laws enacted in this area? Are they designed to cure some social problem? Are they designed to solve some economic problem?

Are they designed to accomplish some other major objective? Just what are educational laws designed to do? Is there a National Educational Policy or National Manpower Policy that is the end result? One has difficulty answering those questions so, therefore, one also has difficulty in dealing with compliance and enforcement concepts. Compliance for what and enforcement for what?

A Point of Departure

In an attempt to focus upon compliance and enforcement concerns, the assumption will be made that there are sound philosophical foundations for Federal laws for vocational education. But, in the same vein, one has to ask the question of whether or not laws that are enacted should focus upon the process or the product (results).

It is necessary to examine the reasons or needs for compliance and enforcement. In so doing some major questions arise. If rules and regulations have to be developed in order to insure that the intent of Congress is carried out, you first have to ask the question, "Are not the goals and objectives for vocational education the same at the National and local levels?" Or do the States simply want federal dollars in order to meet their own goals and objectives. If the latter is, in fact, the case, it would be wise to examine the reasons for the discrepencies in goals and objectives between the National and state levels. Since it is logical to assume that national and state goals and objectives are at least similar, you then have to

become concerned as to whether or not the rules and regulations for compliance are smoke screens for some other hidden agenda. In other words, it is possible that rules and regulations are written in a way to accomplish something that may not be the stated objective. For example, rules and regulations for vocational education may be part of the considerations for a total manpower delivery system. That immediately raises the question, "Is vocational education a component of the manpower delivery system and is that a legitimate function of the public educational program?"

The nature of this paper dictates the assumption that vocational education is part of the nation's manpower delivery system and that vocational education is a legitimate function of our public educational system.

## RIGIDITY AND FLEXIBILITY

Federal legislation is developed through a long process of hearings and identification of needs and/or deficiencies. In order to accomodate nationwide needs, then, the laws are usually written in rather general terms to provide for differences among the individual states. As a result of the total process, legislation that is enacted is that which is usually reacting to problems and/or deficiencies. Wnen one responds to a law that is reactive, a set of circumstances take place. First, the law is focused upon those who have failed to solve problems

because the problem is not recognized, or because the situation is ignored, or because those responsible do not have the resources or expertise to solve the problem.

When the law and its ensuing rules and regulations are implemented, those who have the problem are then provided guidelines and suggested strategies (processes) for solving the problem. At the same time, however, those individual states who may have already solved the problem are provided a new set of guidelines and processes, which may be contrary to those that they used to actually solve the problem. And they usually have to spend the appropriated money in specific areas, whether or not they need it. The result - usually confusion and dissatisfaction among those who have solved the problem and the needed nudge for those who have not been as successful in solving the problem.

The problem is that laws and rules and regulations that are developed usually are rather rigid with respect to the processes and procedures that must be used. And those processes and procedures are often suggested as a result of inputs from pressure groups or the bureaucratic and political structure and are not necessarily based upon alternatives that have been proven successful through a sound research and development process.

Secondly, the reactive nature of legislation usually limits its ability to be proactive, therefore limiting the

opportunity of those charged with implementation to be creative, innovative, or perceptive of problems developing at some point in the future.

Thirdly, since reacting to a law is easier than dealing with the unknown, the rules and regulations for reactive legislation are relatively simple to write in concise, prescriptive terms. Further, approved rules and regulation are all that those who are charged with enforcement have to fall back on, so strict compliance to the rules and regulations is easy to adhere to. Finally, in order to prevent different interpretations of Congressional intent, very precise language is needed in the rules and regulations.

Fourth, because Congressional intent has to be kept fore most in mind, and because there is a need to treat everyone equally, most compliance requirements relate to the process only. This inherent problem makes it easy for most states to comply with legislation without necessarily moving toward intended objectives.

Fifth, compliance standards usually set program maximums. Obviously this is not true in all situations but as a general rule, the suggested processes, procedures, percentage set-a-sides, numbers of persons to serve on committees, etc., all become the accepted rule. This does establish some uniformity across the states, but tends to limit the resourcefulness of states and individuals.

What this all leads to is rigidity and inflexibility.

The rigidity that develops in essence leads to the failure of individual states to meet intended objectives. This occurs more because of the "state of mind" that is developed than for any other reason. As was indicated earlier in this paper, almost anyone can comply with Federal legislation, but that compliance does not necessarily lead to any programmatic action. The state of mind soon develops which leads to the attitude that, "Well, we might as well do it (write the State Plan) as they suggested because they (Regional Offices) won't accept it any other way." (Note: In the author's five years of assisting with the development of State Plans, that situation occurred every year.) The inflexibility manifests itself in some program officers' reluctance (and often refusal) to accept state plans or accountability reports unless the state follows a format that conforms to the rest of the plans in the region.

In summary, the factors that encourage rigidity and inflexibility are: (1) the publication of guidelines that suggest specific activities, procedures, table formats, etc.; (2) the reluctance (and often refusal) of regional program officers to accept or approve state plans that do not fit the generally used mold; (3) a lack of training of persons responsible for developing state plans, particularly in the area of planning for constructive change; (4) rules and regulations that focus almost exclusively upon process to the exclusion of product objectives; (5) legislation

that is reactive in nature rather than proactive, and (6) legislation that, in essence, provides support for failure.

## CONSTITUENT PERSPECTIVES

When one discusses the compliance and enforcement question with SEA and LEA personnel, there is little doubt left in your mind about their views. Compliance requirements are manifested in the State Plan. Unfortunately, that is what SEA and LEA personnel consider the State Plan--a compliance document. There is very little value, in terms of plans or planning, that one can gain from the State Plan. In a way, the State Plan is a self-defeating document in that there are so many minute details about so many seemingly unimportant factors, that most people involved in vocational education don't even bother to read the document.

It amounts to people really being more interested in where we are headed and what our objectives are than how we arrived at the contents of the plan. That is the reason there has been a demand for (and some states such as Oklahoma have developed) "popularized versions" of State Plans. There just isn't that much interest in the "boiler plate". And there probably isn't that much need for it either.

The GAO reports of 1972 and 1974 should be enough proof that compliance can be achieved without achieving programmatic objectives. This is an example also of the

fine line difference between compliance and enforcement. States had submitted plans which, apparently, were in compliance with rules and regulations. However, enforcement of provisions was difficult, due to a variety of reasons and situations.

IMPACT OF LEGISLATION ON COMPLIANCE AND ENFORCEMENT

Legislation has had little apparent effect on compliance and enforcement. And, according to many people, it has had little effect on solving our problems. History has borne this out in the previously referenced GAO reports. Although legislation includes provisions for withholding of Federal funds if various requirements are not met, there are no "teeth" in the legislation. In other words, nothing is included in the legislation that indicates what will be done if the requirement is not met. In addition, if some penalties were included, they would again be self-defeating. The constituents for whom the legislation is intended to benefit would be placed in double jeopardy, first of all by being neglected and secondly by being penalized if the original plan is not implemented. Public laws and the ensuing rules and regulations for implementation have attempted to solve some of the compliance and enforcement problems by becoming more prescriptive in nature. That simply has made it more difficult for States to write plans that are in compliance with Federal

legislation while staying within the bounds of state legislation and program objectives. The situation may be alleviated to some extent if legislation was geared more to concerns about product with fewer concerns about process.

Another area of concern that has received little attention, except for some initial efforts by the National Advisory Council on Vocational Education, is that area related to the role of U.S.O.E. in compliance and enforcement. It has generally been assumed that most of the responsibilities for and problems of compliance and enforcement rests with State and local education agencies. That is not so. There are many responsibilities specifically assigned at the National level. Although progress is being made in selected areas, problems such as late development and dissemination of program guidelines, delayed development and dissemination of grant competition announcements, failure to provide needed amounts and quality of technical assistance, and others all have a negative effect on compliance and enforcement.

Current legislation appears to be directing vocational education down the road to greater federal control. Several problems are appearing on the horizon as a result. It is becoming more and more evident that the "tail is wagging the dog," so to speak. The problem is so critical that some State Education Agencies have entertained the

ideas of rejecting Federal funds for vocational education and/or developing two systems of vocational education in the same state; one to be in compliance with federal statutes and one to meet the needs of individuals in their state.

Evidence of more federal control can be identified throughout P.L. 94-482. Examples include Sections 104.71-104.74 of the Rules and Regulations (relating to elimination of sex discrimination and sex stereotyping) and Sections 104.771 - 104.776, related to vocational education personnel training.

The current legislation is leading toward less flexibility at the local level and more control from the federal level because everything is geared to process. There are few, if any, concerns about the product or how students should be different after having been enrolled in vocational education. What this is all leading to is the development of vocational education programs across the country that will all use the same or similar process but all turning out products (students) of different types and quality (competency levels).

## SOME ALTERNATIVES

There does seem to be considerable concern and dissatisfaction with vocational education at the National, state and local levels. There are some changes that could be made to alleviate some of those concerns.

Changes could be made in current legislation or there could be a totally new direction for legislation.

Changes in Current Legislation

One of the first changes that is needed is to change the focus of legislation from that of process to that of product. This would have to be done by first developing national policy for manpower and national policy for education. The policy should be couched in terms of what the intent is or what we expect manpower and educational programs to do for people. Then there is a need to develop standards and descriptions of what clients should look like in terms of competencies they possess. If we move toward being concerned about the product rather than the process, there is more likely to be the development of more innovative and effective delivery systems. Current legislation actually perpetuates outdated, ineffective, inefficient delivery systems.

Such a reorientation would actually cause more attention to and concern for individual students. It would require and cause more guidance and counseling of individuals and would result in better programs of individualized instruction. It would also have a positive effect on individual attitudes, job satisfaction, employer satisfaction, and related areas. Such a reorientation would also cause severe headaches at the national level, because there would be a tremendous need to identify what is needed in

terms of competency levels, competency measurement, instruments and procedures, identification of new and emerging occupations and competencies, and other areas. Such a move would also cause a disorientation of current efforts and a frustrating transition period. In the process there would be a transfer of the responsibility for process to the state and local level and assumption of the responsibility for the direction product development at the National level. The catalytic role of federal funds would be more identifiable and controllable. Finally, such a reorientation would necessitate closer cooperation and involvement of the total educational system, department of labor efforts, and other agencies at the Federal and State level.

A second need is to change the focus of administration at the National level from that of control to that of planning and "direction giving". That can be done by eliminating most of the current compliance requirements and providing appropriate inservice programs for incumbents in addition to selective recruitment efforts. Such a move (near elimination of compliance requirements) would be like "taking the brakes off" the States and letting them proceed toward their goals at their own and often more rapid pace.

A third area where change in current legislation would be helpful is to change the notion of federal involvement in vocational education from that of playing a catalytic

effect to that of a fertilizer effect. The catalytic effect notion is that federal funds can be injected and after a period of time the federal funds can be withdrawn (or shifted) with the programs and efforts that were started continuing with state and local support. The erroneous assumption is that when federal funds are injected to begin specific efforts to accomplish objectives determined at the National level, that those federal initiatives are also the objectives at the state and local level. This is often not the situation at all, as evidenced by testimony of state directors of vocational education, and others, that if certain funds were withdrawn or even reduced, efforts in that area would probably cease.

By changing the basic philosophy of funding to be able to accept or reject funding for specific types of programmatic efforts, national objectives could be achieved without necessarily forcing every state to comply with specific objectives established at the National level, for whatever reason. Further, this would permit concentration of funds where they are needed and prevent the required spending of funds in states where they are not wanted or needed. Since the degree of need may be greater (for a specific problem area) in one state than in another, this variance would be accommodated. This approach would also permit the funding of efforts until the problem is solved or a need is met, which would ultimately lead to a more

systematic problem solving approach. (Assuming that the problem solving approach is that which is desired.)

One of the major outcomes of this change would essentially be to change the entire funding formulas for vocational education. However, there may be some need to do that anyway, since factors other than just population, or proportions of populations in specific age groups may be more important. (Such as climate, topography, strategic national interests, and problem pockets caused by natural disasters o. shifts in national efforts such as the aerospace industry.)

The previous three changes would make compliance and enforcement easier or at least more palatable since efforts would focus more on the product (student) development than the process.

New Legislative Efforts

Just as it is feasible to change current legislation, it is also feasible to initiate efforts leading to new kinds of programs.

One of the greatest needs is to clearly identify the overall rationale and reason for federal support to education, which has to include vocational-technical education as an integral component. When that is completed, there is need to clearly spell out the role of each function and level of our current educational program, identify alternative delivery systems that could be used to

to achieve desired objectives, assign priorities and then fund efforts to achieve desired results. At the risk of committing heresy, there may be a need to consolidate programmatic efforts and funding in order to achieve specified results. In eseence, I am suggesting the need to bring ESEA, Vocational Education, Career Education and most likely CETA and related programs all together. Again, many of those programmatic efforts focus upon the process aspects of education and training efforts rather than the product. A consolidation of programs such as those suggested would concentrate efforts upon nationwide needs. This would not necessarily lead to any one segment losing its identity or being swallowed up by others, but it would prevent much duplication of effort. It would also allow for the allocation of resources to discover new alternatives for problem solution (which is often given as a good reason for duplicating efforts ).

## SUMMARY

The original intent of this paper was to examine how to achieve compliance and enforcement of the laws of the United States. The attempt was made to question what had to be complied with and enforced. The idea was developed that compliance and enforcement, for practical purposes, actually focused upon the processes involved, and that it was not a productive investment to be concerned to any

great extent with process. It was further suggested that in order to eliminate the trivia and related problems with respect to compliance, that the national focus should be redirected to product development. Some alternative approaches to the compliance/enforcement concern were suggested.

In conclusion, it is strongly suggested that national efforts be focused upon the employability of individuals rather than their employment and that in order to do that, we must redirect efforts to be concerned with what individuals can do (as a result of our educational efforts) rather than what we do to individuals. When this mentality is developed, compliance problems will disappear.